

1 S.87

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Criminal procedures; sexual exploitation

5 Statement of purpose of bill as introduced: This bill proposes to extend the  
6 statute of limitations for certain sex crimes; clarify that a superintendent or  
7 headmaster is not permitted to enter into a confidential employment separation  
8 agreement that inhibits the disclosure to prospective employers of factual  
9 information about a prospective employee's background that would lead a  
10 reasonable person to conclude that the prospective employee has engaged in  
11 conduct jeopardizing the safety of a minor; and establishes the Committee for  
12 Enhancing School Safety.

13 An act relating to sexual exploitation of students

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 13 V.S.A. § 4501 is amended to read:

16 § 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

17 (a) Prosecutions for aggravated sexual assault, aggravated sexual assault of  
18 a child, sexual assault, human trafficking, aggravated human trafficking,  
19 murder, arson causing death, and kidnapping may be commenced at any time  
20 after the commission of the offense.

1 (b) Prosecutions for manslaughter, sexual assault, lewd and lascivious  
2 conduct, ~~sexual exploitation of children under chapter 64 of this title~~, sexual  
3 abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement,  
4 forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and  
5 felony tax offenses shall be commenced within six years after the commission  
6 of the offense, and not after.

7 (c) Prosecutions for any of the following offenses alleged to have been  
8 committed against a child under 18 years of age shall be commenced within 40  
9 years after the commission of the offense, and not after:

10 (1) ~~sexual assault~~ sexual exploitation of children under chapter 64 of this  
11 title;

12 (2) lewd and lascivious conduct;

13 (3) sexual exploitation of a minor as defined in subsection 3258(c) of  
14 this title;

15 (4) lewd or lascivious conduct with a child; and

16 (5) manslaughter.

17 (d) Prosecutions for arson shall be commenced within 11 years after the  
18 commission of the offense, and not after.

19 (e) Prosecutions for other felonies and for misdemeanors shall be  
20 commenced within three years after the commission of the offense, and not  
21 after.

1       Sec. 2. 13 V.S.A. § 1386 is added to read:

2       § 1386. EMPLOYMENT AGREEMENTS

3           In accordance with 21 V.S.A. § 306, it is the policy of the State of Vermont  
4       that no confidential employment separation agreement shall inhibit the  
5       disclosure to prospective employers of factual information about a prospective  
6       employee's background that would lead a reasonable person to conclude that  
7       the prospective employee has engaged in conduct jeopardizing the safety of a  
8       vulnerable adult.

9       Sec. 3. 16 V.S.A. § 253 is amended to read:

10      § 253. CONFIDENTIALITY OF RECORDS

11           (a) Criminal records and criminal record information received under this  
12       subchapter are designated confidential unless, under State or federal law or  
13       regulation, the record or information may be disclosed to specifically  
14       designated persons.

15           (b) The Secretary, a superintendent, or a headmaster may disclose criminal  
16       records and criminal record information received under this subchapter to a  
17       qualified entity upon request, provided that the qualified entity has signed a  
18       user agreement and received authorization from the subject of the record  
19       request. As used in this section, "qualified entity" means an individual,  
20       organization, or governmental body doing business in Vermont that has one or  
21       more individuals performing services for it within the State and that provides

1 care or services to children, persons who are elders, or persons with disabilities  
2 as defined in 42 U.S.C. § 5119c.

3 (c) In accordance with 21 V.S.A. § 306, a superintendent or headmaster  
4 shall not enter into on behalf of a supervisory union, school district, or  
5 recognized or approved independent school a confidential employment  
6 separation agreement that inhibits the disclosure to prospective employers of  
7 factual information about a prospective employee's background that would  
8 lead a reasonable person to conclude that the prospective employee has  
9 engaged in conduct jeopardizing the safety of a minor. A superintendent or  
10 headmaster and employees of a supervisory union, school district, or  
11 recognized or approved independent school shall provide factually correct  
12 information concerning a former employee's employment record with the  
13 supervisory union, school district, or recognized or approved independent  
14 school to a prospective employer of that individual if requested by the  
15 prospective employer. Nothing in this subsection shall permit the disclosure of  
16 information that is prohibited from disclosure by subsection (b) of this section.  
17 A person shall not be subject to civil or criminal liability for disclosing  
18 information that is required by this section to be disclosed if the person was  
19 acting in good faith and reasonably believed at the time of disclosure that the  
20 information disclosed was factually correct.

1       Sec. 4. COMMITTEE FOR ENHANCING SCHOOL SAFETY

2           (a) Creation. There is created the Committee for Enhancing School Safety.

3           (b) Membership. The Committee shall be composed of the following eight  
4 members:

5               (1) the Secretary of Education or designee;

6               (2) the Executive Director of the Vermont School Boards Association or  
7 designee;

8               (3) the Executive Director of the Vermont Independent Schools  
9 Association or designee;

10              (4) the Executive Director of the Vermont National Educators  
11 Association or designee;

12              (5) the Executive Director of Child Abuse Vermont or designee;

13              (6) the Executive Director of the Vermont Network Against Domestic  
14 and Sexual Violence or designee;

15              (7) the Executive Director of the Department of State's Attorneys and  
16 Sheriffs or designee; and

17              (8) the Defender General or designee.

18           (c) Powers and duties. The Committee shall:

19               (1) develop a model policy for adoption by public schools and  
20 recognized and approved independent schools, as defined in 16 V.S.A. § 11, on

1 electronic communications between school employees and students, designed  
2 to prevent improper communications; and

3 (2) recommend whether behaviors by an employee of, or contractor for,  
4 a public school or recognized or approved independent school designed to  
5 establish a romantic or sexual relationship with a child or a student, so called  
6 “grooming behaviors,” should be unlawful under Vermont law, and, if the  
7 Committee recommends that grooming behaviors should be unlawful, shall  
8 include in its recommendation:

9 (A) how grooming behaviors should be defined;

10 (B) whether all students or children in a school environment should  
11 be covered;

12 (C) whether the behavior should result in a misdemeanor or a felony,  
13 and the related punishment; and

14 (D) the statute of limitations for bringing a related action.

15 (d) Assistance. The Committee shall have the administrative, technical,  
16 and legal assistance of the Agency of Education.

17 (e) Report. On or before October 15, 2018, the Committee shall submit a  
18 written report to the House and Senate Committees on Education and on  
19 Judiciary with its findings and any recommendations.

1        (f) Meetings.

2            (1) The Secretary of Education shall call the first meeting of the  
3        Committee to occur on or before July 15, 2017.

4            (2) The Committee shall select a chair from among its members at the  
5        first meeting.

6            (3) A majority of the membership shall constitute a quorum.

7            (4) The Committee shall cease to exist on October 15, 2018.

8        Sec. 7. EFFECTIVE DATES

9            This act shall take effect on July 1, 2017, except that Sec. 6 (Committee  
10        for Enhancing School Safety) and this section shall take effect on passage.